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December 12, 1984

Mr. Russel H. Wyer, Director
Hazardous Site Control Division (NPL Staff)
Office of Emergency and Remedial Response (WH-548E)
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Re: Proposed Additions To National Oil & Hazardous Substances Contingency Plan: The National Priorities List
Public Comments Submitted By: Findett Corporation, St. Charles, Missouri

Dear Mr. Wyer:

This law firm represents Findett Corporation ("Findett") in connection with EPA's proposal to add Findett's site in St. Charles, Missouri to the National Priorities List.

On behalf of Findett Corporation, please accept this letter, and its attachments, as Findett's public comments and strong objections to being included on the National Priorities List. As is more fully explained in this letter and in the technical evaluation of Environmental Science and Engineering, Inc. ("ESE"), the simple fact of the matter is that the Findett site in St. Charles, Missouri does not qualify for inclusion on the National Priorities List according to EPA's own guidelines and standards. I trust that this letter, and its attachments, will prove this point to your satisfaction.

1. Introduction.

As stated in EPA's proposed rulemaking, only sites with Hazard Ranking System ("HRS") scores of 28.5 or greater are

eligible for inclusion on the National Priorities List. According to the complete documentation record for the Findett site, which we obtained from the public docket at EPA Headquarters in Washington, D.C., an HRS score of 38.21 for the contaminant migration potential (S_m) of the Findett site was computed by Ms. Diana J. Bailey from EPA Region VII.

We believe and respectfully submit that Ms. Bailey's ranking was in error, since it was strongly influenced by one erroneous value used in the HRS score computation. The value used in Ms. Bailey's model computation was intended to indicate release of contamination from the site to local groundwater; however, the samples from which the model value was obtained had been taken contrary to EPA's published procedures and established protocol for groundwater sampling. In fact, the two samples relied on by Ms. Bailey were not of groundwater at all; one was a core soil sample and the other was a sample from the boring wash water which was known to be contaminated with sediments from the surface and water used during the drilling.

Findett has retained Environmental Science and Engineering, Inc. ("ESE"), a well-established environmental consulting firm, who has been involved in technical analysis and engineering assessments of numerous hazardous waste sites throughout the United States. ESE's expertise is well known to EPA and, in fact, EPA has retained ESE on numerous occasions in the past. A more complete summary of ESE's qualifications is attached hereto as Exhibit 1.

More specifically, ESE's preparation of the HRS scoring system has been done by Dr. Ronald G. Alderfer, Ph.D., ESE's midwest regional vice-president and senior scientist. Dr. Alderfer holds a bachelor's degree from Washington University in St. Louis in the field of biology and a doctorate from Washington University in the field of biophysical ecology. Upon completing his doctorate, Dr. Alderfer taught at the University of Chicago in the fields of environmental regulation of physiological processes for six years. Since then Dr. Alderfer has been employed as an environmental consultant and has been involved in many assignments related to hazarous waste management. A more complete curriculum vitae for Dr. Alderfer is attached hereto as Exhibit 2.

Dr. Alderfer and ESE independently computed the correct HRS score for the Findett site. Dr. Alderfer and his associates have spent many hours reviewing site conditions and evaluating all of the voluminous test data obtained from the site to date. Based on that review, it is Dr. Alderfer's and ESE's firm conclusion that the Findett site should have only received an HRS score of 6.73 for the contaminant migration potential (S_m). Therefore, ESE concludes that the Findett site does not qualify for inclusion on the National Priorities List. A copy of ESE's report computing its own HRS score and critiquing Ms. Bailey's scoring is attached hereto as Exhibit 3.

While we firmly believe that the Findett site cannot be included on the National Priorities List, we do wish to assure EPA that Findett has in the past fully cooperated with EPA and will continue to cooperate with EPA in the future. Therefore, while the condition of the site is not sufficient to warrant Findett's inclusion on the National Priorities List, whatever problem that may exist at the site will be remedied in the very near future. To this end, Findett has submitted to EPA Region VII a Final Report, prepared by ESE, which includes a proposed corrective plan for the site. A copy of the Final Report is attached hereto as Exhibit 4.

Accordingly, not only is the Findett site not eligible for inclusion on the NPL as a technical matter, it also is not appropriate for inclusion at this time since any remaining problems that may still exist at the site will soon be remedied by Findett, who accepts full responsibility for the clean-up of its own site.

2. Request for Hearing.

While we attempt in this letter and its attachments to explain fully why the site is not eligible for inclusion on the National Priorities List, this is a technical matter, which we believe can be explained best in a meeting with you and all other EPA officials charged with responsibility for evaluating our public comments. I have already requested such a meeting in a telephone conversation with Joseph R. Gearo, Jr. of your office. I will call him in the near future to attempt to confirm a date for such a meeting.

3. History of the Site.

In order to permit you to place this entire matter in perspective, it is appropriate that you understand the history of Findett and how its site first came to the attention of EPA. This is more fully explained in the Final Report (Exhibit 4) and, in particular, in the exchange of correspondence between EPA and Findett, which you will find included in the attachments to Exhibit 4.

By way of brief background, Findett was founded in 1962 by a group of professional engineers who developed processes to reclaim heat transfer and other functional fluids, which generally were then being dumped by their users on an uncontrolled basis into the environment. Many of these fluids contained PCBs. These fluids were reclaimed in accordance with the then state of the art technology and returned to their owners to be put back into use. Findett never bought, sold or used PCBs.

During the reclamation process, the still residues from the heat transfer fluid reclamation system were blown to a quench pond located on the south side of Findett's property. (A map of the property showing the location of the quench pond can be found among the Exhibit 4 attachments). This method was chosen because it was the safest method known to Findett for handling residues with temperatures in excess of 500 degrees Fahrenheit. Accordingly, over a period of time, the land immediately surrounding the quench pond area, as well as the quench pond itself, became contaminated with PCBs.

In addition to the quench pond area, PCB contamination on the Findett site can be traced to two other sources. The first, and largest area of contamination, resulted from condensate drippage from the vacuum ejectors (at the area of borehole No. 4 shown in the Exhibit 4 attachments). The second source resulted from the general handling of fluids within the old PCB processing area. These were relatively minor in nature.*

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*See last paragraph on page 5, infra, for a discussion of a fourth area which became contaminated by excavation of the quench pond done pursuant to EPA order.

Findett began phasing out the processing of PCBs in 1971 and totally discontinued the processing of PCB fluids in 1974. Today, Findett's main processing plant is located to the north side of its property and it no longer uses the area where PCB fluids were recycled and reclaimed for its manufacturing processes. Findett remains in business both as a recycler and reclaimer of heat transfer and other functional fluids, and as a blender and manufacturer of specialty chemicals.

4. EPA Involvement.

The attachments to the Final Report (Exhibit 4) contain some of the exchange of correspondence between EPA and Findett from 1976 to present. The full exchange of correspondence between EPA and Findett over the years is voluminous and it would be prohibitively expensive to attach it in full to this document. However, we believe that all pertinent correspondence is included.

Findett's involvement with EPA began in 1975 when EPA officials first visited Findett's site. At that time the quench pond was in the same general condition it had been prior to 1973. EPA officials suggested Findett simply cap the quench pond and made no mention of excavating the area prior to capping. Findett complied fully.

On April 6, 1976, EPA requested Findett's cooperation in a study to determine the sources and amounts of PCBs in the environment. Findett fully cooperated with this study, as well as numerous other EPA studies over the years.

On July 23 and 24, 1976, EPA sampled the soil in the quench pond and drainage ditches adjacent to Findett's property. Samples were found to contain PCBs. On December 16, 1977, again at EPA's suggestion, the quench pond was drained, excavated down to "visually clean" soil, and again capped with clean dirt. During this excavation process some of the PCB contaminated soil was temporarily stored at EPA's insistence in an area to the northeast of the pond. This resulted in some PCB contaminants becoming mixed with the soil in an area which otherwise was not contaminated. Subsequently, this excavated material was shipped to an EPA approved landfill. The matter was then thought to have been resolved by both EPA and Findett.

However, on October 1, 1979, it was noted that some of the waste residues, which had not been seen during the excavation to "visually clean" soil, had seeped to the surface. Samples of these residues were taken by EPA in October, 1979, revealing the presence of PCBs in excess of fifty parts per million.

Thereafter, on September 5, 1980, EPA issued its Administrative Order (Docket No. VII-80-VII-37) to Findett. This order required Findett to excavate PCB-contaminated soils in the area of the quench pond until all soil samples taken from the bottom and sides of the excavated area revealed fifty parts per million or less PCBs. All excavated material was to be containerized and shipped to an approved landfill. Upon completion of the excavation and proving to EPA's satisfaction that the quench pond site contained no more than fifty parts per million PCBs, Findett was to fill the excavated area with clean soil, which was to be compacted and sloped to minimize erosion. No groundwater samples were contemplated.

Findett implemented this corrective plan between November 16, 1980 and February 28, 1981 under EPA supervision. During this excavation process, minute particles of PCB contaminated still residues fell under the tracts of the bulldozer performing the excavation and were ground into the soil. However, both EPA and Findett agreed that the pond area had been excavated and cleaned as well as possible and to EPA's satisfaction. The excavated material was containerized and shipped to an EPA approved landfill. EPA has never permitted Findett to fill the excavated pond area, notwithstanding the proposal to do so in the 1980 Administrative Order.

In July, 1981, Ms. Deborah A. Kopsick, an employee of Ecology and Environment, prepared a study of the Findett site at EPA's direction. On the basis of a single sample from one borehole, that study hypothesized the existence of organic oils in the ground underlying Findett's site and expressed concern that these oils could act as a vehicle for migration of trace PCBs from the site to the groundwater.

Findett strongly disagreed with Ms. Kopsick's conclusions. To disprove the validity of the theory, once and for all, Findett consented to a further study of the site, which resulted in the Consent Order, dated September 24, 1982. This Order

required soil and groundwater sampling in conjunction with a visual search for underground organic liquids. After continued discussions with EPA, Findett's work plan was approved on March 15, 1983. Subsequent modifications which were requested by EPA, were made and approved by EPA on November 8, 1983.

On December 8, 1983, Findett was requested to provide additional information to EPA Region VII pursuant to 42 U.S.C. §6927, 42 U.S.C. §9604(e), and paragraph D of the Consent Order.

On May 25, 1984, Findett engaged our law firm to assist in its dealings with EPA. Prior to that time all negotiations were being conducted between EPA's regional counsel and Findett's principals, who are not lawyers. We subsequently engaged Environmental Science and Engineering, Inc. to provide additional technical expertise.

On August 13, 1984, pursuant to an extension agreed to by EPA Region VII, all material requested in EPA's letter of December 8, 1983 was sent.

On September 14, 1984, we directed a Freedom of Information Act request to both Region VII and EPA Headquarters. As of this date, while we have been permitted to review some EPA documentation, we have not yet received these documents which we specifically requested to be produced and copied.

On December 14, 1984, pursuant to an extension approved by EPA Region VII, ESE will submit its Final Report (Exhibit 4), pursuant to paragraph B.5. of the Consent Order.

As you can see from the history of the site, Findett has always cooperated with EPA Region VII in the past. This cooperation has caused Findett to spend approximately $200,000.00 in out-of-pocket expenditures from 1976 to present. Additionally, untold thousands of dollars have been spent in terms of time by Findett personnel and lost opportunity costs because of this situation. While this has been extremely costly to Findett, Findett is dedicated to resolve all of EPA's reasonable concerns about this site so that Findett can return to its ordinary business.

Findett began in business as a company dedicated to preventing contamination from uncontrolled discharges of heat transfer and other functional fluids. Today, it remains an environmentally concerned citizen who is involved heavily in resource recovery. Findett wishes to safeguard and prevent harm to the environment by remedying, within the next three to six months, whatever problems may remain at the site.

5. Evaluation of Test Data.

Both ESE's HRS scoring of the site (Exhibit 3) and the Final Report (Exhibit 4) contain a detailed analysis of the voluminous data obtained from the site to date. Therefore, these analyses will only be discussed in summary fashion in this cover letter.

Suffice it to say, every single groundwater sample taken from the five Findett monitoring wells have shown conclusively that there has been absolutely no PCB contamination of the groundwater. Groundwater samples have been taken directly from Findett's site and from wells located adjacent to the site. Moreover, the City of St. Charles has sampled its six drinking water supply wells for PCB contamination regularly since 1976. At no time have PCBs been detected.

Many soil samples have also been taken at four different levels (5, 10, 15 and 20 foot depths) at various locations on the property. Thirty-four of these samples were taken around the perimeter of the old PCB processing area (approximately one-half acre in size). Not one single perimeter sample was found to contain PCBs in excess of 50 parts per million. (The highest was 44.5 parts per million. All remaining samples were below 13.3 parts per million). At no time were any underground organic liquids found in the soil.

As expected, higher levels of PCB contaminated soils were found in the old fluids handling areas. The only permissible interpretation from these samples is that PCB soil contamination is localized and has not "migrated" horizontally through the soil from one area to another.

AQ 6007 & AQ 6008 Already Now it was an error

6. NPL Proposal by Ms. Bailey.

In light of Findett's history of cooperation with EPA, as outlined herein and in the supporting documents, Findett was extremely surprised to learn that it had been proposed for the National Priority List. No advance warning was given; Findett first learned of this by reading accounts in the local newspapers a few months prior to receiving official notification from the Federal Register.

As soon as Findett learned of this fact, it requested all of the documentation supporting the nomination from Region VII. Region VII advised, however, that it could not provide any documentation relative to the National Priorities List, or even discuss the National Priorities List, as the sole authority to discuss this matter was vested in your office.

It was not until sometime after the Federal Register was published that Findett received the documentation from Ms Bailey purporting to support her HRS score. Findett or its consultants were never allowed by Ms. Bailey or anyone else from EPA to comment upon or confirm the accuracy of her HRS score. Had we been able to discuss this matter with EPA Region VII, I believe a different conclusion would have been reached and the site never would have even been nominated for the NPL.

We will not discuss in detail in this letter the conclusions reached by Environmental Science & Engineering, Inc., as described in Exhibit 3. We believe this exhibit is totally self-explanatory and accurately places the HRS score for the Findett site at 6.73, well below the 28.5 cut-off for eligibility on the National Priorities List.

Ms. Bailey's scoring model is, unfortunately, replete with errors. First, the report contains several typograhical errors, some of which are quite significant. In her discussion of "observed releases" in the groundwater route score, for example, she refers to sample "AQ6009", when her supporting documentation shows that PCB contamination of 30 parts per million was found in sample "AQ6007."*

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*AQ6009 was a sample of "Revert" used in drilling and was never analyzed to Findett's knowledge.

This is significant because the receipt for groundwater samples, Findett Engineering's drilling logs, and the EPA's laboratory analysis report all agree that this sample was, not of groundwater, but a core soil sample. To find contamination of soil at the level of 30 parts per million in an area known to have been contaminated is not startling; certainly, it is no indication of groundwater contamination.

Next, Ms. Bailey reports sample AQ6008 as containing 13 parts per million "PCV and volatile organics." Since no testing was done for poly-vinyl chlorides (PVC), we assume this was intended to mean "PCB", not "PCV". The score of 13 parts per million is also in error as the EPA laboratory report reports the result as 1.3 parts per million.

The most significant error with respect to sample AQ6008 is its characterization as a groundwater sample. As is established by Findett Engineering's drilling log, this sample was a boring wash water sample. It was not obtained from the groundwater, but was obtained from the surface after the boring wash water had been mixed with surface and drilling soils in a known contaminated area.

EPA's laboratory analysis of this sample, like AQ6007, was reported on a form entitled "Findett Soils." Further, the EPA data sheet shows the matrix for this sample, like sample AQ6007, to be sediment. The sample was never intended to show anything other than the contents of borehole wash water, containing surface and drilling sediments. Certainly, it was not intended to be any indication of the state of the groundwater. Why Ms. Bailey reports it as a groundwater sample is not understood by Findett.

As noted, the sediment/boring wash water sample came from the surface, not the groundwater. EPA protocol for obtaining groundwater samples are lengthy and require, among other things, that the well must be screened, cased, and bailed or pumped prior to withdrawing a sample; this was not done. The protocol specifically warns that samples containing "foreign material, inadvertently or deliberately introduced from the surface" will result in "unrepresentative data and misleading interpretation of same." We submit that this is precisely what has occurred in this instance.

Finally, we note that Ms. Bailey characterizes both these samples as having been procured from "monitoring well No. 1." We believe this to be grossly misleading as a monitoring well was never established. At this borehole, groundwater was not effectively sampled and attempts to develop a monitoring well at this location were unsuccessful.

On the other hand, where monitoring wells were established at the site, eighteen groundwater samples were taken. Each such sample, which both EPA and Findett agree were properly conducted, shows absolutely no PCB contamination of the groundwater. Each was conducted according to strict EPA protocol and, with one exception, each was taken with both EPA or its contractors and Findett present. Why Ms. Bailey insists on relying on two sediment samples, known not to have been taken for the testing of groundwater and known not to be taken in a correct and reliable manner, while ignoring eighteen other groundwater samples, taken over the course of more than a year, remains a mystery to Findett.

Dr. Alderfer and ESE have noted other discrepancies and errors in Ms. Bailey's report. They are discussed fully in Exhibit 3 attached and will not be discussed here.

The simple fact of the matter is, however, if one disregards what one knows to be improper samples, whose results have not been duplicated in over eighteen other properly conducted groundwater samples, there is absolutely no basis to support an assigned value or 45 to the groundwater route HRS score. The correct assigned value is "0", as reported by ESE. Making this correction, the Findett site HRS score is only 6.73, as stated by ESE, and, therefore, the site cannot be included on the National Priorities List.

8. Opportunity to Supplement the Record.

In addition to requesting a hearing on this matter, we respectfully request the opportunity to provide supplemental written comments to EPA. As noted above, we have not yet received from EPA Region VII those documents we requested to be copied by EPA Region VII pursuant to our Freedom of Information Act request, filed on September 14, 1984. We believe that this data, when forthcoming from Region VII, may contain further

information to discredit the accuracy of Ms. Bailey's HRS model. Accordingly, we respectfully request that the public comment period remain open until we have an opportunity to provide this supplemental data.

Also, as noted in the Final Report (Exhibit 4), additional monitoring well sampling will be conducted on December 20, 1984 and March 21, 1985. When we receive the results of these samples, we will make them known to you.

9. Conclusion.

I trust this letter and its enclosures explain fully why Findett should not be included on the National Priorities List. If EPA is going to establish by regulation proper groundwater sampling protocol, as it has done, then it should not and cannot abandon that protocol. In this case, the sole evidence used to support Findett's nomination for the NPL are two samples which are soil samples, not groundwater samples. Their results, standing alone, do not prove anything about the content of the groundwater; when compared to other known reliable groundwater samples, however, it is clear that these samples are only an indication of soil contamination, and no valid indicator of groundwater contamination.

While Findett objects most strenuously to inclusion on the NPL, we do wish to reassure EPA that Findett will continue its high degree of cooperation to resolve this issue promptly.

I look forward to the opportunity to meet with you and your staff to be able to answer questions any of you may have concerning this matter. However, should you desire any further written material from either Findett or its consultants, please feel free to contact me.

Thank you very much for your attention to this matter.

Respectfully,

ARMSTRONG, TEASDALE, KRAMER
& VAUGHAN

Edwin L. Noel

ELN/mm

Enc.

ATTACHMENTS TO
ARMSTRONG, TEASDALE, KRAMER & VAUGHAN
LETTER OF DECEMBER 12, 1984
TO RUSSEL H. WYER

Exhibit 1	Qualifications of Environmental Science and Engineering, Inc. ("ESE")
Exhibit 2	Curriculum Vitae for Dr. Ronald G. Alderfer, Ph.D.
Exhibit 3	ESE Response to EPA Evaluation of the Findett Corporation Site Using the Hazardous Ranking System (HRS) Model
Exhibit 4	Final Report - Findings and Consent Order - Docket 82-H-032 - Prepared by ESE for Findett Corporation.